

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
 CRIMINAL ACTION NO.
v.)
 2:20cr085-MHT
)
 (WO)
DIEGO FAGUNDEZ)

ORDER

At the end of a one-day jury trial in this court, defendant Diego Fagundez was found guilty of conspiracy to distribute methamphetamine.

At the conclusion of the evidence, and as required by law, *United States v. Hewes*, 729 F.2d 1302, 1312 (11th Cir. 1984), the court made oral findings of fact that the government had shown by a preponderance of the evidence all of the requisites for the admissibility of the coconspirator statements about which evidence had been received against Fagundez. The court stated that it would make more detailed, written factual findings should Fagundez be found guilty and that both the government and defense counsel would be given an opportunity to submit proposed findings.

Accordingly, it is ORDERED that the government is to submit a proposed opinion with detailed factual findings by August 14, 2023, and defense counsel, if they wish, may do the same by that date. The proposed opinions should cite to the relevant exhibits--in particular, the transcripts, by page and line number, of the phone calls.

For examples of post-trial opinions setting forth such findings, counsel for the parties should review *United States v. Carter*, 614 F. Supp. 3d 1081 (M.D. Ala. 2022), and *United States v. Carmichael*, 379 F. Supp. 2d 1299 (M.D. Ala. 2005).

DONE, this the 31st day of July, 2023.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE